

# United States District Court

CENTRAL DISTRICT OF UTAH

FILED IN UNITED STATES DISTRICT COURT, DISTRICT OF UTAH

MAY 13 2014  
BY MARK JONES, CLERK  
DEPUTY CLERK

UNITED STATES OF AMERICA  
v.

## ORDER SETTING CONDITIONS OF RELEASE

Robert G. Lustyik, Jr.

Case Number: 2:12cr645 TC

IT IS SO ORDERED that the release of the defendant is subject to the following conditions:

- (1) The defendant must not commit any offense in violation of federal, state or local or tribal law while on release in this case.
- (2) The defendant must immediately advise the court, defense counsel and the U.S. attorney in writing of any change in address and telephone number.
- (3) The defendant must appear in court as required and must surrender for service of any sentence imposed.  
The defendant must next appear at (if blank, to be notified)

PLACE

on

DATE AND TIME

### Release on Personal Recognizance or Unsecured Bond

IT IS FURTHER ORDERED that the defendant be released provided that:

- (✓) (4) The defendant promises to appear in court as required and to surrender for service of any sentence imposed.
- ( ) (5) The defendant executes an unsecured bond binding the defendant to pay the United States the sum of

dollars (\$ )

in the event of a failure to appear as required or to surrender as directed for service of any sentence imposed.

### Additional Conditions of Release

Upon finding that release by one of the above methods will not by itself reasonably assure the appearance of the defendant and the safety of other persons and the community, it is FURTHER ORDERED that the release of the defendant is subject to the conditions marked below:

- (✓)(6) The defendant must:
- ( ) (a) maintain or actively seek verifiable employment and/or maintain or commence an educational program as approved by the pretrial officer.
  - (✓)(b) abide by the following restrictions on his/her personal associations, place of abode, or travel:
    - (✓)i) maintain residence and do not change without prior permission from the Court.
    - (✓)ii) not travel outside the Southern District of New York, with the exception of travel to District of Utah for court related matters or to Washington D.C. for a classified information review, without prior permission from the pretrial officer and the Court.
    - (✓)iii) not travel outside the United States without prior permission from the Court.
  - ( ) (c) maintain residence at a halfway house or community correction center.
  - (✓)(d) avoid all contact with those named persons, who are considered either alleged victims, potential witnesses and/or codefendants. Government to provide list of potential witnesses within 14 days of actual release. Dft must also avoid contact with any potential witness he might call. This includes the Dft's physician and any communication with physician is permitted only for the limited purpose of transferring medical records to an alternative physician.
  - (✓)(e) report on a regular basis to the pretrial officer as directed.
  - (✓)(f) not possess a firearm, ammunition, destructive device, or other dangerous weapon.
  - ( ) (g) ( ) not use alcohol, ( ) not use alcohol to excess, ( ) not frequent establishments where alcohol is the main item of order.
  - ( ) (h) not use or unlawfully possess a narcotic drug and other controlled substances defined in 21 U.S.C. § 802 unless prescribed by a licensed medical practitioner. Prescriptions should be reported to the pretrial officer.
  - ( ) (i) submit to drug/alcohol testing as directed by the pretrial officer:
    - ( ) (i) if testing reveals illegal drug use, the defendant must participate in drug and/or alcohol abuse treatment, if deemed advisable by the pretrial officer.
    - ( ) (ii) if testing reveals illegal drug use, the court will be notified immediately, with further action to be determined.
  - ( ) (j) participate in a program of inpatient or outpatient substance abuse therapy and counseling if deemed advisable by the pretrial officer.
  - ( ) (k) undergo mental health evaluation and complete any recommended treatment, as directed by the pretrial officer, and take any mental health medications as prescribed.
  - (✓)(l) surrender any passport to the United States Clerk of the Court, Southern District of New York.
  - (✓)(m) not obtain or apply for passport.
  - ( ) (n) not incur new credit charges or open additional lines of credit without prior permission from the pretrial officer.
  - ( ) (o) not be employed in any fiduciary capacity or any position allowing access to credit or personal information of others.
  - ( ) (p) not view, access or possess any sexually explicit materials.
  - ( ) (q) not have contact with those individuals under 18 years of age without adult supervision except as approved by the pretrial officer.
  - (✓)(r) participate in one of the following location restriction program components and abide by its requirements as the pretrial officer instructs:
    - ( ) (i) Curfew. You are restricted to your residence every day ( ) from \_\_\_\_\_ to \_\_\_\_\_ or ( ) as directed by the pretrial officer; or
    - (✓)ii) Home Detention. You are restricted to your residence at all times except for employment, education, religious services (must be documented), medical, court appearances, court-ordered obligations, or court classified information review as preapproved by the pretrial officer and the Court; or
    - ( ) (iii) Home Incarceration. You are restricted to 24-hour-a-day lock-down except for medical necessities and court appearances or other activities specifically approved by the court.
  - (✓)(s) submit to the location monitoring indicated below and abide by all of the program requirements and instructions provided by the pretrial officer related to the proper operation of the technology:
    - (✓) (i) pay all or part of the cost of the program, based upon your ability to pay as the pretrial officer determines;
    - ( ) (ii) Location monitoring technology as directed by the pretrial officer;
    - (✓)iii) Radio Frequency (RF) monitoring;
    - ( ) (iv) Global Positioning Satellite (GPS) monitoring;
    - ( ) (v) Voice Recognition monitoring;
    - ( ) (vi) Voice Recognition monitoring with breathalyzer.

### Additional Conditions of Release Continued

- (✓)(t) submit person, residence, office, or vehicle to a search, conducted by the pretrial officer at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release; failure to submit to a search may be grounds for revocation; the defendant will warn any other residents that the premises may be subject to searches pursuant to this condition.
- (✓)(u) participate in the United States Probation and Pretrial Services Office Computer and Internet Monitoring Program under a ( ) co-payment plan or ( ) non-co-payment plan, and will comply with the provisions outlined in:
  - ( ) (i) Appendix A - Limited Internet Access (Computer and internet use, as approved);
  - (✓)ii) Appendix B - Restricted Internet Access (Computer access only, as approved. No Internet, including email.);
  - ( ) (iii) Appendix C - Restricted Computer Access (No computer or internet access except for approved employment).

All computers, internet accessible devices, media storage devices, and digital media accessible to the defendant are subject to manual inspection/search, configuration, and the installation of monitoring software and/or hardware.

The defendant must submit person, residence, office, or vehicle to a search, conducted by the pretrial officer at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release; failure to submit to a search may be grounds for revocation; the defendant will warn any other residents that all computers, internet accessible devices, media storage devices, and digital media may be subject to searches pursuant to this condition.

- (✓)(v) execute a bond or an agreement to forfeit upon failing to appear as required, the following sum of money or designated property. \$500,00 secured bond to be posted within 14 days of release.
  - ( ) (w) post with the court the following indicia of ownership of the above-described property, or the following amount or percentage of the above-described money:
  - ( ) (x) execute a bail bond with solvent sureties in the amount of \$
  - ( ) (y) be placed in the custody of a third party, who agrees (a) to supervise the defendant in accordance with all the conditions of release, (b) to use every effort to assure the appearance of the defendant at all scheduled court proceedings, and (c) to notify the court immediately in the event the defendant violates any conditions of release or disappears.
- (Name of person or organization)  
(Address)  
(City and state) (Tel.No.)

Signed: \_\_\_\_\_

Custodian or Proxy

- ( ) (z) The defendant must cooperate in the collection of a DNA sample if the collection is authorized by 42 U.S.C. § 14135a.

(✓)7) Additional conditions:

With the exception of his defense team, only members of Defendant's family may visit him at his home. Defendant must provide a list of the family members he wishes to visit him in his home to the Pretrial Services Officer in advance of any visit.

Defendant's attorney and defense team may visit him at his home at any time without limitation.

Defendant may not have any contact with any member of law enforcement, with the exception of his brother, except in the case of an emergency.

Defendant may only use his home land line to call his attorney or defense team, including investigators or 911, in case of an emergency.

Only phones that are currently used in the home now by immediate family members may be permitted. Any new phone or replacement phone must be approved by Pretrial Services Officer.

With the exception of Defendant's defense team, visitors may not bring cell phones or any other devices that can access the internet into the home.

Defendant may travel to the District of Columbia, for classified evidence review based upon positive recommendation of Pretrial Services, Security Officer and approval by the Court. Any such request must contain specifics as to date, location and where Defendant will be staying while such review is ongoing. Such requests should be made sparingly and very deliberately.

## Advice of Penalties and Sanctions

TO THE DEFENDANT:

YOU ARE ADVISED OF THE FOLLOWING PENALTIES AND SANCTIONS:

A violation of any of the foregoing conditions of release may result in the immediate issuance of a warrant for your arrest, a revocation of release, an order of detention, and a prosecution for contempt of court and could result in a term of imprisonment, a fine, or both.

The commission of a Federal offense while on pretrial release will result in an additional sentence of a term of imprisonment of not more than ten years, if the offense is a felony; or a term of imprisonment of not more than one year, if the offense is a misdemeanor. This sentence will be in addition to any other sentence.

Federal law makes it a crime punishable by up to ten years of imprisonment, and a \$250,000 fine or both to obstruct a criminal investigation. It is a crime punishable by up to ten years of imprisonment and a \$250,000 fine or both to tamper with a witness, victim or informant; to retaliate or attempt to retaliate against a witness, victim or informant; or to intimidate or attempt to intimidate a witness, victim, juror, informant, or officer of the court. The penalties for tampering, retaliation, or intimidation are significantly more serious if they involve a killing or attempted killing.

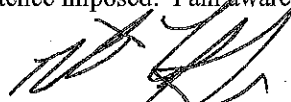
If after release, you knowingly fail to appear as required by the conditions of release, or to surrender for the service of sentence, you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, you will be fined not more than \$250,000 or imprisoned for not more than 10 years, or both;
- (2) an offense punishable by imprisonment for a term of five years or more, but less than fifteen years, you will be fined not more than \$250,000 or imprisoned for not more than five years, or both;
- (3) any other felony, you will be fined not more than \$250,000 or imprisoned not more than two years, or both;
- (4) a misdemeanor, you shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender must be in addition to the sentence for any other offense. In addition, a failure to appear or surrender may result in the forfeiture of any bond posted.

### Acknowledgment of Defendant

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and to surrender for service of any sentence imposed. I am aware of the penalties and sanctions set forth above.



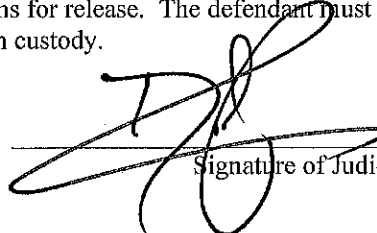
\_\_\_\_\_  
Signature of Defendant

\_\_\_\_\_  
City and State

### Directions to the United States Marshal

- ( ☒ ) The defendant is ORDERED released after processing. *RETURNED TO SDNY BASED ON WARRANT.*
- ( ) The United States marshal is ORDERED to keep the defendant in custody until notified by the clerk or judicial officer that the defendant has posted bond and/or complied with all other conditions for release. The defendant must be produced before the appropriate judicial officer at the time and place specified, if still in custody.

Date: 5/13/14



\_\_\_\_\_  
Signature of Judicial Officer

**Magistrate Judge Dustin B. Pead**  
Name and Title of Judicial Officer